IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL APPLICATION NO.5444 OF 2005

Shri.Praful Kantilal
Rokadia ..Applicant
Vs.
State of Maharashtra & Anr. ...Respondents

...
Mr.A.H.H.Ponda Advocate for Applicant
Ms.S.V.Gajare A.P.P. for the State
Mr.J.P.Shah i/b A.S.Khan & Associates
for Respondent no.2
...

CORAM: SMT.V.K.TAHILRAMANI,J.
DATE : SEPT. 14,2005

P.C.

1. Heard the learned advocate for the applicant, learned advocate for the respondent no.2-original complainant and the learned A.P.P. for the State.

2. The applicant is seeking quashing of process issued by the learned Special Magistrate, Small Causes Court No.25, Mumbai in Case No.1635/S/2002. In the said case process was issued against the applicant under Section 138 r.w. 141 of Negotiable Instruments Act.

3. For the reasons recorded in the decision of this Court in the case of **V.K.Jain and others Vs.**

Pratap V. Padode reported in 2005(3) Mh.L.J.778, I am of the opinion that the applicant has an efficacious remedy of preferring revision against the order of Magistrate issuing process. Hence, in my view, it would be appropriate that the applicant prefers a revision before the concerned Sessions Court against the order of the Magistrate issuing process.

4. Liberty is granted to the applicant to prefer the necessary revision before the concerned Sessions Court. The learned advocate for the applicant makes a statement that the necessary revision will be preferred within four weeks from today. In view of this statement, the trial Court shall not proceed with the trial for a period of four weeks.

. The learned advocate for the respondent no.2-complainant fairly states that no objection will be raised in respect of delay in filing the revision.

5. It is stated on behalf of the applicant that in

the said case, NBW came to be issued against the applicant. It is prayed that the said NBW be quashed. I am not inclined to quash NBW as in my opinion, it would be appropriate that the applicant prefers application before the trial Court for setting aside the said NBW.

. Liberty is granted to the applicant to prefer the necessary application. The learned advocate for the applicant states that the necessary application will be preferred within five weeks from today. In order to enable the applicant to take necessary steps for setting aside NBW, the said NBW is stayed for a period of five weeks from today.

6. On the necessary revision being preferred by the applicant before the concerned Sessions Court, the concerned Sessions Court shall dispose of the matter on merits after hearing the necessary parties.

7. Criminal Application is disposed of.

8. Authenticated copy be issued to the parties.

[V.K.TAHILRAMANI,J.]